IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

Crl.MC.No. 3328 of 2007()

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CC.369/2004 of JUDL. MAGISTRATE OF FIRST CLASS-IV, KOZHIKODE

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PETITIONER/ACCUSED:

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ALAPPURAYIL BEERANKUTTY,
S/O.ABOOBACKER,
ALAPPURAYIL HOUSE,
KIZHAKKOTH AMSOM,
AVILORA DESOM, KOZHIKODE.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENT/COMPLAINANT STATE:

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1. SUB INSPECTOR OF POLICE,
CITY TRAFFIC, KOZHIKODE.

2. STATE REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J.**

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Crl.M.C.No.3328 of 2007

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Dated this the 1st day of November 2007

**O R D E R**

The petitioner faces indictment in a prosecution inter alia under Section 304A I.P.C. Investigation was completed. Final report was filed. Cognizance was taken. C.C.No.369/04 was registered against the petitioner for offences punishable inter alia under Section 304A I.P.C. The petitioner entered appearance at the stage of 313 examination. The petitioner started not appearing thereafter. Warrant of arrest has been issued against the petitioner. The petitioner finds such warrant of arrest issued by the learned Magistrate chasing the petitioner.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to

release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

**(R.BASANT, JUDGE)**

jsr

**R.BASANT, J.**

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007